



LAPORTE COUNTY BOARD OF ZONING APPEALS

Government Complex, 5th Level
809 State Street, Suite 503 A
LaPorte, Indiana 46350-3391
(219) 326-6808, Ext. 2591, 2563 & 2221
Fax: (219) 362-5561

Michael Polan
Building Commissioner

May 12th, 2026

Dear Members:

A special meeting of the LaPorte County Board of Zoning was held Tuesday, **May 12th, 2026, at 6:00 p.m.** in the Assembly Room of the County Complex.

MEMBERS PRESENT: Melissa Mullins Mischke Ernie Schmidt
 Jeff Baltes Anthony Oss
 Eric Pointon

Present: Attorney Andrew Voeltz; Michael Polan, Recording Secretary;
 Janet Cole, Administrative Specialist.

Melissa Mischke: Tonight we do have some changes to the agenda. For those of you that are here for petition number two, which is a Special Exception for Yellowstone Solar Project, LLC, represented by their counsel, Christopher Willoughby, for construction and operation of a commercial large scale ground mounted solar energy system, that petition is going to be postponed by the petitioner until the June meeting.

If you're here for that petition, I apologize that you came out, but the petitioner has chosen to wait until the June meeting. So, if you're here for just that petition and you'd like to leave, I'll give you a couple minutes, so that we can continue on with our meeting.

If you guys can please move quickly, we do have a big full agenda tonight and I appreciate it. The meeting will be June 16th.

Are there any other modifications, that you are aware of for the agenda? I will entertain a motion for petition number one to be removed from the table

Eric Pointon: I move that Petition #1 is a removed from the table.

Jeff Baltes: Second.

Motion approved and carried 5 – 0.

Melissa Mischke:

#1 is a Petition to rescind the Use Variance and appeal of enforcement decision by the Legacy Corporation and Legacy Lane LLC asking the BZA to rescind a Use Variance granted on August 19th, 2025 in favor of Premier Real Estate Development, LLC, RJ's Boosted Performance LLC and TK Tire Repair LLC, collectively known as Respondents, on real estate located at 305 West Johnson Road, LaPorte, 46350, Center Township, zoned R1B on a total of 1.068 acres.

So since this petition had been tabled, we've heard all the remonstrance. I know that as a board, we have received a lot of written remonstrance against this particular petition. So, if you have questions about that remonstrance, you can visit the building commissioner's office and he will make it available for you.

Attorney Voeltz: Madam President, notice is adequate.

Attorney Anthony Novak: Good evening, Madam President, members of the BZA. My name is Anthony Novak. I'm here tonight on behalf of Legacy Lane LLC and the Legacy Corporation. At your request, I am going to pare down my presentation tonight. So, I apologize in advance for maybe it being a little disjointed on this last second notice, but I'm going to move through it just fine.

Melissa Mishke: We appreciate it. Thank you.

Attorney Novak: Absolutely. So, we're here tonight asking for this previously approved variance to be rescinded. Ivan, if you can go to second slide. Specifically, we're asking that the board review and determine, number one (1), that the use that exists today is not consistent with what was approved. And number two (2), that the business owners have failed to comply with numerous code requirements. As a result, you guys have the authority to rescind the variance. In your August 2025 hearing, the business owners represented that this was going to be a small boutique automotive repair shop focused on special vehicles. I believe that zoning boards have the right to rely on representations made by petitioners in front of you. You guys ultimately approved it based on those representations by a vote of three to two. In the time since then, the business owners have unilaterally expanded, intensified, and materially changed their use to include outdoor storage, of heavy equipment and commercial trucks, outdoor mechanical work, long-term storage of wrecked and inoperable vehicles, accumulation of debris, and operating beyond approved hours, all while ignoring numerous code requirements that need to be in place before they open for business and which need to be in place while conducting business.

Here, the actual operation has materially departed from those representations and is no longer the approved small mechanic shop, but a substantially different, more intensive use. As a result, the property is no longer operating under the granted variance, but instead in violation of the zoning ordinance. We ask that you respectfully put a stop to this. By not taking action, we believe it sets a dangerous precedent. It lets others know that so long as you represent the right things in a public meeting and get approval, you can do whatever you want after that fact. So, we're hoping that with this case, the board lets the public know to please make representations appropriately and do exactly what you say you're going to do.

Next slide, please.

We anticipate that the business owners are going to rely on the case Monroe County BZA versus Bedford Recycling, arguing that essentially, we're taking a second bite of the apple here and asking that you guys simply reconsider your decision. Stated in another way, we're just upset about the decision that was made in August. But let me be clear. We are not here asking you to reconsider that decision. Rather, we're alleging non-compliance since that time. We acknowledge that Bedford Recycling stands for the fact that absent change in circumstances, you cannot reconsider your decision. We recognize that the remedy at that point is judicial appeal, which we filed and which was dismissed on a technicality. But we are not simply here saying, please do it again. We are here saying they represented something to you. They're doing something completely different. They've been told time and time and time again what the issues are. I have literally previewed for them what needs to be done for me to not be up here to talk at all, and they still have yet to comply.

And the BZA authority that we're going to be relying on here, there's kind of twofold. There's this Schleuser versus City of Seymour, and there's also Article 26 and Article 28 of the BZA, which indicates that if the scope of a variance is exceeded, if conditions are not complied with, you guys have the ability to revoke. I will not hide anything. You guys have other ability as well. You can issue fines. You can red tag them and tell them to stop working. You can do a lot of things, but to simply let them go on without taking any action against their non-compliance, I believe is a slippery slope.

If I could, Ivan, if I could actually have you go to slide 39.

So just in the interest of time, and I know that you guys have driven by the property and seen it, I know I submitted pictures with my application, which is on record. I'm going to skip through the numerous pictures, which we believe show the numerous violations that exist at this property. And I won't stick on this picture, but that's just going to transition to my next part.

We believe that the activities that are going on here align a little bit closer to a junk or salvage yard, and as a result is not complying with what was ultimately approved. We don't believe that these were incidental deviations from the small repair shop. We think it's been a fundamentally different land use altogether.

Since the hearing in August, just to tell you real briefly what we've done, we are not just simply coming back up here trying to ask you guys to reverse your decision. We have communicated with Mr. Polan numerous times. We sent a letter in December of 2025 specifically detailing all of the violations that we believed exist.

In talking with Mike, I recognize that this is a somewhat novel issue. I have asked Mike respectfully, issue fines, do something, and he has indicated that, you know, he's constrained by other obligations in his office, but also, he would respectfully request that the BZA would be the one that would make the decision rather than him. While I respect that, I am honestly frustrated with that because I believe Mike has that authority and nothing is being done when there's all these other code abiding property owners in the neighborhood.

Ivan, if I can have you go to slide 41.

As indicated, and I know we typically don't talk a lot about case law in front of you guys, but this is a very novel concept. The case that they're going to rely on is Bedford. In Bedford, essentially what happened is it was represented to the board that somebody was going to operate a scrap facility. The BZA ultimately approved that, and then there became opposition after that hearing.

That BZA attorney indicated that he believed that he actually applied a wrong definition and that there was therefore an error of law. About 11 months later, that variance was revoked. No change in circumstances, no change in facts. The BZA attorney just simply said, hey, there was an error of law and therefore we need to revoke it.

That case ultimately went up to the Supreme Court, and they said that, hey, these guys had a vested right in the permit. You can't just simply have what's called the error of law exception, and that was ruled out.

Our case, City of Seymour, is distinguishable. In this case, somebody actually went in front of the City of Seymour BZA, asked for a variance for an automotive use with a specific number of parking restrictions, and then continually operated beyond the scope of what was approved.

The court held in that case that when there are clear conditions imposed upon a permit, when it is specifically said what the permit is going to be for and somebody operates beyond that scope, the BZA retains inherent authority to have the ability to enforce what they approved and to ultimately revoke that permit.

Just a couple rebuttal arguments before I close this out. Some of the arguments that I know that the business owners are going to make is, number one, they're going to make substantial improvements to this property, but they haven't yet because there is litigation playing out.

Respectfully, we've heard variations of that before. Yet despite those representations and the despite the passage of approximately 9 months, things have not materially changed. And there's nothing in the code that indicates that while an appeal is pending or while a petition to revoke is pending, that somebody does not have the obligation to comply with code. And while they say they don't have to put in these code requirements, they simultaneously are taking the benefit of the permit and they're actually operating. Number 2, that this is just simply a neighborhood dispute. I don't disagree that tensions are high. I know you guys have fielded a lot of questions and I know that's very frustrating. But the frustration that I have here is not because of the interpersonal conflicts, but the fact that there are specific code requirements that need to comply. And if they were, this dispute wouldn't exist. Number 3, you'll probably hear that there have been recent efforts to clean up the property, install a fence. It's my understanding that some of the heavy machinery that's been stored out there for months has just now been moved to another location upon information and belief of the owner of the property. But that does not show good faith. That just simply shows that when there is an imminent threat of revocation, that I'm finally going to take action. Otherwise, we don't have to comply.

So, in closing, this case is not about isolated code violation or minor condition issues. It's a question of whether the operation that you guys see today is exactly what was presented to you and what was approved. The approval was for a small boutique auto repair shop focused on controlled indoor oriented operation. What exists now is materially different. Outdoor storage of inoperable vehicles, accumulation of dismantled parts, heavy equipment and semi-truck storage, and yard-like use of the property. At some point, the use stops being a mechanic shop with issues and becomes an entirely different land use that was not presented in front of you. So, we're past that point. We believe you have; we know that you have the authority to determine that the current operation exceeds the scope of the variance as granted, that there are numerous code violations, and we would respectfully ask that you would take enforcement authority up to and including revocation of the permit.

Thank you.

Melissa Mishcke: And thank you again for condensing. So, Attorney Willoughby, if you'd like to come forward and going to give you roughly the same amount of time. Get your name and address for the record, please.

Christopher Willoughby, Braje, Nelson and James here tonight on behalf of the respondents.

So, I have the utmost respect for Mr. Novak. Everything he said sounds good if you say it fast. And he did represent that we're getting into a little bit more of the legal arguments tonight than you normally have in terms of case law. But this is really a simple issue. They absolutely don't have any authority and you don't have the authority based on their petition to revoke what was granted.

Under the code, your duties, powers and duties are under section 28-02 A through C. It's, and under that, you don't have the authority to hear and consider Legacy's petition. You can hear appeals of an order, requirements, decisions, or determinations of your enforcement official, for instance. There has been no action taken. And what is conveniently left out here is Mr. Polan, and I believe he has done as well as he can, and I don't mean that to sound self-serving. I have the utmost respect for that office. I'm a straight shooter when my clients are wrong, but I also call things as they are. And this isn't novel. This is common. And he's taken a common-sense approach to, hey, we know people weren't happy with this variance. And the harassment started from day one.

Right here in this front row, after the variance was granted, walked outside and there's a group, headed by a couple sitting next to Commissioner Holifield. And I said, "Hey, I know you're not happy with the result, but my clients, they're good young kids. They're going to do their best. They have Mr. Ake behind them. He's going to invest in them. And they're going to try to fit in this neighborhood and change your mind."

And what I was told point blank right after that meeting, have no interest in meeting them, want to know nothing about them.

It's continued. It continued tonight. I'm sparing you the video that, again, same neighbor who worked closely with the petitioners and have harassed my clients. And we have so many videos, multiple police reports, trespassed from the property of harassment, pictures, sitting there with video, even before this meeting tonight with somebody who was with the resident. Who represented to be a member of the BZA. We're going to get to deal with that a different day, because he is a member of a BZA of another city

So again, this harassment, when we talk about what responsibilities are, absolutely the code applies. You have a business, you're supposed to apply, abide, the code sets forth what should happen. Our variance was granted for a small mechanic shop.

Nobody's arguing that. But we're not here tonight on any legal basis where you have any authority to revoke it. Could you in the future under the code? Yes, you could. Case is cited by Mr. Novak, I disagree with his application, but he did use one key word, but didn't elaborate. Revoked based on the violation of a condition. And those are the two conditions, the two things that you could revoke this variance on is at a future date when there's notice and you find violations and you order Mr. Polan or other designees to investigate and they come back to you and report and then we get notice and we get orders to comply and there's a stop work order. And there's a finding that we have violated a condition or a written commitment. There are no written commitments. We didn't have any of those. There were two conditions on the variance, business hours and the LED sign. Business hours, they're not defined anywhere, but we all commonly know what that means, open to the public.

If we were to say you can't be there on the property at all, no restaurant could make sauce, prep, cut veggies before business. It's ludicrous. But here we are, fighting. And yes, things need to get done there. But right away, harassment. Then, we get notice that they appeal the decision. We go through the court dance. We prevail there. They're still not happy. Here we are. Now your worst nightmare, I imagine, is having a Hatfields and McCoy decision, right? We didn't get 100% of the votes up there. And some of you likely felt, we don't want to create this. We know what's going to happen. Some of you might predict, here we are. But it's also your duty to follow the law.

They want to appeal a decision, but the code under section 26, administration and enforcement, 26-04 talks about penalties. Mr. Novak cited that. Penalties can be imposed by you or your enforcement official, except it says may, may be imposed. Under Section 26-06, enforcement by injunction or other legal action, may pursue that. Under Section 31-01, construction of language, subsection B, may is defined. Those are your definition sections in the JZO. May is permissive.

Case law says that they cannot challenge a permissive discretionary act. Whether there is or isn't a violation hasn't even been determined yet. And under the code, there is a provision that says you could revoke us. Under section 28-12, subsection C, upon the issuance of a stop work order by the BZA or its designated representative. Upon, meaning "if" we've never gotten there. We've not even seen the chance. I understand the spin that might be put on that. Well, you've had nine months. We have nine months of chaos. Has their business grown? Yes. Just because there's bigger vehicles. TK's is a truck business. Just because there's big trucks don't

mean there's big repairs going on. But the pictures, they represent to you what they think they mean, but nobody's been there to see what's going on.

We don't have any stop work orders. We don't have any fines. We do have a business that's thriving. Do they need to fit in that neighborhood? Absolutely. Do they intend to? Yes. There's nothing to appeal or overturn from Mr. Polan because he hasn't made any decision. He hasn't issued any fines or made a finding that there isn't a violation. And everything that is in here that they want him to do is discretionary. And the same with you. Again, do I believe that you have the power to make findings? Yes, at a future date when there's due process and you make findings and there's a stop work order, but we're not there. Not by a long shot.

Small mechanics business, it's not defined, and Mr. Novak points that out in his summary. But generally, under the North American Industry Classification System, that's used by federal agencies to classify entities, to gather data, to ultimately and analyzing and organizing economic stats. A small mechanic business is what they are. They're nothing more, nothing less than what's going to be there.

Lastly, I do want, I want to wrap up with this. They are taking a second bite at the apple. The case is cited are very clear that you are a quasi-judicial body that has the ability to make a decision under specific rules, and you're a creature of the Indiana Code and then subsequently the JZO. And those rules are what control. After you make your decision, you no longer have the authority to revoke or overturn. Despite, if our clients told you they were going to have a small mechanic shop and they decided to have a jet engine repair shop with huge noise, that still changes the character of it, but we're in violation, right? Stop work order land in fines, written violations. And that is the process that we would have to go through, not revocation. That's court action, injunctions. Not that we want to get there. That doesn't benefit anybody to spend the public's money on litigation. What will benefit is having the opportunity to move forward with what was granted and stop the harassment.

So, in summary here, the petitioner has no standing for this revocation. That's your prerogative at a future date, for all the reasons I've said. There are no decisions for Mr. Polan or his office to appeal. Due process is the thing here. Due process is important. And just because they kick and scream and they file something before you and they file some voluminous report and have all these pictures, it has no bearing on what your ultimate decision should be. There were no commitments. Only 2 conditions, those haven't been violated. There are no determinations by Mr. Polan's office there's been any violations. And those are the only two violations that would even then get you to the point where you could revoke that variance. There's been no complaints of noise. It's simply aesthetics. And I find it comical because Legacy Corporation, their other development is just down the street. And right across from that is what is a salvage, a true salvage yard. There are no

complaints about that. It's because they've never wanted this and they don't, and they've continued to harass. So much so that some things are going to have to get addressed civilly outside of this. That's outside of your purview. That's not a veiled threat. It's just, it's come to that point. Nonetheless, these young business owners deserve the opportunity to succeed. They've built a good business and they need to comply. There's no arguing that. But today's not the day for the relief that they seek. Thank you. Yeah, that's all I have. Thank you.

Melissa Mischke: Thank you, questions from the board. If we have questions from Attorney Novak, let's go ahead and ask him first.

Anthony, do you feel with all of the information you've been provided that harassment is indeed what's going on there? And the reason I ask is because I'm made aware of two times the police have been called to that location when I talked with the sheriff's department and a third today, in fact. I'm not going to get into the nature of those calls, but are they harassment in nature?

Attorney Novak: Respectfully, I'm not involved in any of that. So like, I don't want to be speculative here. Like, and I'm not doing this.

Melissa Mischke: Your clients have not indicated.

Attorney Novak: I have not, no, I've not had specific conversations with them. Again, I don't disagree that there's been conflict, but I am not involved in that. I don't direct that. I have one job to do. I think there's a legal basis. I'm here to do it. I apologize. behalf of people that you guys got to listen to that *****. But like, I just get it. There's a lot of tension there, that's unresolved.

Melissa Mischke: Do we have questions for Attorney Novak?

Eric Pointon: I don't have a whole lot of questions for you. I mean, I'm sick of both sides. I'll be completely honest here. The number of emails and BS that has gone on, I don't want to see another picture ever again of this facility from anyone in an email or a presentation. It's, this has gotten out of hand. Yeah. So, I don't really have any more questions for you now. I get piggyback on her harassment one because I do have that written down. I don't really. No questions.

Melissa Mischke: Okay, do we have questions for Attorney Willoughby?

I do. I feel like the verbal representation that was made to us by, I believe, this young lady with the dark hair is definitely not what is going on when they applied for the variance in the 1st place. I don't have the minutes in front of me, but it was something to the effect of and small high-end mechanic shop and auto detailing, I think that's.

Eric Pointon: And a mobile service truck that would not be there working on big equipment there. It was going to be mobile. I do remember that.

Melissa Mischke: So, what I think, the petition, as it was originally granted, is not the same one we're looking at today. Certainly, the use of it is not the same. I drive by there all the time. It's an eyesore. It would be an understatement, in my opinion. I would not want to live there. And you mentioned in your presentation that they have to fit into the neighborhood. I don't think that by expanding and having large trucks is making an effort to fit into the neighborhood. And that's probably all I'm going to say as far as how I'm going to decide on this. We're going to vote the way we're going to vote, and then we'll see what happens. I also feel like this is one of those areas where maybe the board of commissioners needs to look at it. If the people want this enforced, then we need an enforcement mechanism in place to do that. And that's not going to be done by this board.

Attorney Willoughby: Do you want me to respond to any of that?

Melissa Mischke: No, unless you have a response that doesn't sound, I mean, you were not with us on the initial petition of variance of use.

Attorney Willoughby: I was present.

Melissa Mischke: Do you do you know what can you tell us what the criteria were for that business?

Attorney Willoughby: As presented or what was approved? Yeah, it was the high end. It was mobile trucks, mostly on the road. I don't have the same recollection as Mr. Pointon, but I can concede this because I believe that's important too.

That business has grown exponentially, which on the one hand is a good thing for young business, and on the other hand, we need to fit in. However, that is not revocation worries. And the insinuation that there was a misrepresentation, it just, that simply didn't happen. However, those are potentially if you're outside of the code where your enforcement official investigates that and writes warnings and fines or stop work orders if something's outside of that. But you don't have the authority. And as I say that, I don't wave that flag as if that is hey, you, they need to fit in. And we've had that discussion, if I'm being frank. I've been very frank with these guys of you got to fit in. And that'll be the same discussion later tonight and the next day. They have to fit in and everybody has to find a way to get along. Thank you.

Anthony Oss: I have a question. Can I ask you one question? So, I had to catch up. I wasn't here in August. So, I went back and I read the minutes, In the minutes and in the meeting, you stated that they didn't comply with the JZO that we had the authority under 14-05 to pull to revoke the approval.

So, do we still have that authority under 14-05?

Melissa Mishke: I think that's going to be a question for our legal representation.

Attorney Willoughby: But I will address my comment of the thinking. . We're getting to the same, the same, you have the ability to revoke it if there's a, if there's a stop work order and there's a violation. So just because the transcript that's addressing it, but the points that I was making, those are the sections that it comes from that if there's a violation of a condition or a commitment, then it can be revoked upon the issuance of a stop work order by your enforcement official. So, I do stand behind that. But the point is, what fits in there and the nuance from my perspective is there's one condition or two conditions and no commitments. Business hours, and the like. But I also don't want to gloss over. I have to fit in. So, to answer your question, I agree with it.

Anthony Oss: One more, bear with me here. There are multiple definitions in the JZO. There is major automotive repair, and then there is minor automotive repair, which is what I believe was represented in August, but again, I wasn't here. There's also repair non-automotive, which I think is what I feel like when I've driven by the site is what this is sort of crept into. It's non-automotive repair. Non-automotive repair is a different classification than the JZO versus cars. Is that, is what going on, what is going on there? Is it non-automotive repair at some, some of it non-automotive and some automotive or?

Attorney Willoughby: Well, it's truck repairs. It's exactly what was represented.

Eric Pointon: There's a lot of wood chippers

Anthony Oss: That's what I'm asking is. Automotive to me means a vehicle that's licensed. But if it is a Bobcat being welded on in the parking lot or if it's wood chippers that are waiting or a bucket truck or bucket. That's what I'm asking. Is there non-automotive repair occurring there?

Attorney Willoughby: We believe that it all fits. There are things besides cars getting repaired there that are part of their business. So yes. OK, however, those again are... If we're outside of that, those are fines, warnings, et cetera, not worthy of a revocation.

Anthony Oss: Understood. Thank you.

Melissa Mischke: Attorney Voeltz, do you have anything you'd like to advise us?

Attorney Voeltz: What I would say is that Article 26 certainly does provide the ability of La Porte County Board of Zoning Appeals for administration and enforcement of actions that were entered into pursuant to the joint zoning ordinance. And it does specifically provide for enforcement by injunction. It also allows then to go back to Section 14-05, if specific terms and conditions or conditions or characteristics are not adhered to, it provides for enforcement of that. However, again, based upon the petition in which it was presented and approved, this seems to be outside of the scope of that original petition and then the granting of the use variance based upon those specific terms and conditions.

My understanding is that the original permit, or I'm sorry, the original use variance did have, at a bare minimum, two conditions that have not been met, number one. But then, there were other issues with regards to other sections of the JZO that were included within that. For example, again, specifically section 14-05, (C), referencing vehicle service stations and truck stops with the specific conditions that must be met. For example, all vehicle service and repair shall comply with section 14-05 (A) above. And it discusses with regards to the storage and display. So, these were all incorporated into. And it appears based upon the evidence that is presented that, again, this is something that you can hear to determine whether or not that permit was properly granted and then what your action can be then moving forward from that.

Melissa Mischke: So, an outcome this evening, we could make a motion to have the enforcement of the original variance.

Attorney Voeltz: It is my opinion based upon the reading of the JZO and then the reading of the case law that was submitted. That certainly is within the scope of power and authority of a board of zoning appeals that conducts business in the manner that the LaPorte County Board of Zoning Appeals does. Unfortunately, this is not unique to LaPorte County. Whereas the facts and circumstances contained in the two cases that were mentioned are rather far afield. It's not an apples and oranges comparison because there are terms and conditions with all use variances that are granted. So, with that being said, that is an avenue that that the BZA can pursue.

Melissa Mischke: That makes sense to you guys? Do you have any questions on that?

Eric Pointon: But we can make a ruling or we need to go through Mike's office?

Melissa Mischke: We would need to have a motion to direct.

Attorney Voeltz: There is a petition that is that is before you at this point and it needs to be determined how the board wants to proceed based upon the specific terms that are contained within the petition. Now, if you want to go outside that, certainly that's your authority and ability to as well. But again, the petition before you this evening is to rescind the use variance and appeal of enforcement decision of the previously issued variance that was issued by this board back in August of last year. That's what you're determining here today. And if you if you move outside of that determination, those can be conditions as related to what you determine your cause of action or your action will be this evening.

Michael Polan: Madam President, I would just add to that by saying that I believe your decision can be twofold. It's not just voting on whether to rescind the variance, but it can be to vote to direct me to take specific enforcement action. And I would add that, the reason that enforcement action hasn't been taken yet is not because I believe there isn't violations. It's because I have stayed my actions pending all of the legal mumble jumble that's about going on, the appeal, then the weather, then trying to get surveyors. And there's been, and then we lost our attorney and we've had multiple continuances. There's a lot of factors that have gone into that. Having said that, this cannot go on. The way that it has been going on and the hammer's coming down one way or the other, whether it's from this BZA or whether it's counsel and I after that.

Melissa Mishcke: It is a problem on both sides. I don't even know, disappointed in our population that this kind of action is what goes on based on the emails and the photos and the videos I've seen. It's absolutely ridiculous. So, with that, I do think that the automotive business was misrepresented in the initial meeting. And quite frankly, I think every person who signed that petition needs to be holding you accountable to that. I know I can recall a handful of names that were on that petition in your favor. And I, if I were one of them that was voting and giving my support to you, I'd be calling you in and saying, you need to toe the line. So, with that, I'm going to entertain a motion and I hope it includes to direct Mike's office to take some action.

I can step down from the chairperson. I make a motion that we direct the building commissioner's office to take appropriate enforcement action on the hours of operation or any other items that are stipulated in the original use variance.

Eric Pointon: I'll second that.

Attorney Voeltz: You have a motion and a second, so there may be discussion.

Anthony Oss: Is there is there a mechanism then to revisit this or where we come back after that?

Melissa Mishcke: I can amend my motion to include that you report back to us in the July meeting, the progress. Does that sound like enough time? Sixty days?

Michael Polan: I would be interested in hearing from the petitioner as to how long they need to comply. 60 days, 90 days, whatever.

Melissa Mishcke: That's going to be part of your communication with them and enforcement. So, will you have information for us in 60 days?

Michael Polan: I can.

Anthony Oss: We're allowing Mr. Polan the discretion, we're authorizing and asking him to begin an enforcement action with discretion to levy fines subject to his judgment on progress being made towards compliance with due back to report in 60 days. Does that seem fair? I make that wordy enough for you, Andrew?

Melissa Mischke: Okay, so I say yes to amending my motion. Are you good with your second with the amended motion?

Eric Pointon: Yes, I'm good. Yeah.

Attorney Voeltz: Madam President, just for purposes of the record here at this point, can you please restate what your motion is verbatim?

Melissa Mischke: I will do my best. So, I am stepping down and I am going to make a motion that we direct the building commissioner's office to use his discretion to levy fines and any enforcement of issues that were not being complied with from the initial use variance and to report back to this board in 60 days progress.

Anthony Oss: Okay. I would also like to include issues regarding, you said the use variance, but also regarding non-compliance with the rest of the JZO.

Eric Pointon I'll still second that.

Melissa Mischke: We're good. So, I have a motion and a second. All those in favor say aye.

Motion approved and carried four (4) to one (1).

Michael Polan: Thank you, Madam President. I will meet with our legal counsel right away. We will determine appropriate course of action, and both of us will have a report back for you on this case in 60 days.

Melissa Mischke: Wonderful. Thank you. So, if everyone that was here for petition number one, if anybody would like to leave, now is your time. I'm going to ask you to do that quickly so that we can continue with our agenda.

Melissa Mischke: Okay, the next petition is;

3. Petition for Variance of Developmental Standards for Timothy and Catherine Kawacin. For construction of a detached garage 4 feet from the side of the property instead of the minimum required 10 feet. The new garage size is 19 (nineteen) feet 5 (five) inches by 35 (thirty-five) feet 9 (nine) inches at 120 Judson Road, Center Township zoned R1B, and I will need a motion to remove this from the table.

Anthony Oss: So, moved.

Eric Pointon: Second.

Melissa Mischke: All those in favor.

Motion approved and carried 5 – 0.

Attorney Voeltz: Notice is adequate.

Melissa Mischke: Please state your name and address for the record.

Good evening. Timothy Kawacin, 120 Judson Road.

Melissa Mischke: Timothy, I feel like we've started this already. So, explain to us again, what is the need that you feel you need to alter the site setbacks?

Timothy Kawacin: I am trying to make a larger garage. I could park two vehicles in it. I lost the garage Thanksgiving to a fire. Got the neighbor here that also built the garage 4 feet off the setback. I am just trying to match his setback.

Melissa Mischke: Do we have any remonstrators tonight for this petition? Is there anybody for or against, Petition #3? Would you have a seat? I have a gentleman in the back. Good evening. Would you state your name and address?

Robert Betcher, 116 Judson Road.

Melissa Mishcke: Just for me, is that next door? Yes. Okay.
What are your issues or concerns?

Robert Betcher: I have no concerns. I think it should be able to build it. I have petitioned this board, I guess, nine years ago, and they've granted me permission to, you know, I have nothing against it.

Eric Pointon: Can I ask a question? Are you the adjacent neighbor to the garage?

Robert Betcher: Yes. To the garage.

Ernie Schmidt: How far is your setback off the property line?

Robert Betcher: I think it's 4 feet? Yeah. Same as what he has.

Ernie Schmidt: How much damage did you receive into your building from the fire?

Robert Betcher: I had to replace my trusses in one wall and the garage door overhead.

Melissa Mischke: Thank you. Okay, any other remonstrators? Seeing and hearing none. Tim, if you'd like to come back up. Questions from the board.

Eric Pointon: Why did we table this again? I remember there was something. It was a legal thing, I remember.

Michael Polan: I can speak to that. There were two issues that I can recall. One was that there was a legal drain on a map and we needed to clarify that. That's been worked out and clarified, not a problem. The other one was one of the board members asked our previous attorney about buildings being less than 10 feet apart in the zoning code, that is not in the zoning code. It is in the building code, and that can be addressed by firewalls. So, what you're considering is the setback.

Eric Pointon: Okay. So, I'll make a motion that we approve this, working with Mike's office to do any amendments to fire code or anything that needs to be done.

Timothy Kawacin: Okay, I had spoken with the inspector, David Schuman. And he said, if there's no dwelling and it's two garages side by side and there'll be no windows, that there'd be no need for a firewall.

Eric Pointon: That's not up to me.

Melissa Mischke: Yeah, we have a motion.

Jeff Baltes: I'll second his motion.

Melissa Mischke: Okay, I have a motion and a second to approve those setbacks.

Motion approved and carried 3 – 2.

Melissa Mischke: Good luck. Make sure you work with the building commissioner's office.

Petition #4 is a Petition for Special Exception for Stephen Valich to keep two horses on less than three acres. The property is located at 4952 South Range Road, LaPorte, zoned R1B, on 2.319 acres.

Attorney Voeltz: Notice is adequate.

Melissa Mischke: Thank you. If you would, please state your name and address for the record.

Stephen Valich, 4952 South Range Road.

Melissa Mischke: Stephen, do you already have the horses there?

Stephen Valich: It's hers. She has one that's currently boarded in South Bend.

Melissa Mischke: Okay. Would you state your name and address for the record too, please?

Jalen Beasley, 4952 South Range Road.

Melissa Mischke: So, the second horse is coming from another location.

Jalen Beasley: We'll be looking for a second just because they're herd animals and I don't want her alone.

Melissa Mischke: I apologize. Would one of you approach and identify the parcel just because it's a black and white and we're having...

Okay. So, they've indicated 4952 is the address on our map here.
Thank you.

Any remonstrators tonight for this petition? Anybody in favor or against?
Any remonstrators? Hearing and seeing none, what kind of questions do we have as a board?

Anthony Oss: The first question I have, Mr. Voeltz, this is an R1B, right? So, they're asking for horses in an R1B zoned area.

Melissa Mishcke: Is it the amount per acreage?

Anthony Oss: Well, an R1B, so under 14.02 C (1) whatever, it's an R1B, if you have less than three acres, it's not permitted. So, in an agricultural district, it's allowed by special exception. So, a special exception here is not., I don't know if that's the appropriate way. This becomes a different standard, I would think, right? It's just a use variance then or a developmental standard. Just trying to be clear.

It's interesting. It's an interesting part of the JZO because in an agriculturally zoned district, it says its special exception is permitted, but must still meet requirements, blah, blah, blah. But then under R1B, it says less than three acres not permitted, for horses.

Attorney Voeltz: Mr. Oss, one moment please.

Melissa Mischke: Attorney Voeltz, don't hurry, we're all just staring at you.

Attorney Voeltz: Again, the JZO specifically under section 14.02 C, keeping horses and livestock, it does indicate zoning district under R1B less than three acres not permitted. However, Ag districts, it does show then special exceptions and then permitted, no limit, and then three acres or more, excuse me, and I mean,

Anthony Oss: Then there is standard below

Attorney Voeltz: The permitted, but must still meet the requirements of subsection 2.

Anthony Oss: Right, which is the acreage limits, one acre per. And then they run into that too.

Attorney Voeltz: Again, I mean, we're talking about what has been defined by the petition as 2.319 acres. So that is below 3 acres.

Anthony Oss: Right.

Attorney Voeltz: Now, with that being said, it would be my position that the board needs to table this. And I hate to say that for another month, but the reality is here that the letter of the law is not complying with what I believe the spirit of the law is.

And so, I'm going to look back and see what previous board decisions were with acreage less than three acres, obviously, because I mean, it does specifically.

Anthony Oss: It's tricky because it's in R1B. If it was zoned A, it'd be fine.

Attorney Voeltz: If it was if it was zoned Ag, it would be completely different. And then that may be an avenue to pursue potentially. But again, I don't want to get into speculation here as far as a remedy for this. But I need to look into it. So, I would ask that this be tabled for a month.

Eric Pointon: I'll make a motion we table this until the June 16th meeting, to allow our attorney to review this.

Jeff Baltes: Second

Melissa Mischke: I have a motion and a second to postpone until the June meeting.

Motion approved and carried 5 – 0

Melissa Mischke: You guys are good with that.

Stephen Valick: We have waited this long.

Melissa Mishke: I'm so sorry

Stephen Valich: So, does this help if all of the neighbors around that area I can bring that have less than three acres that keep horses at their property?

Attorney Voeltz: I tell you what, no, no, I don't want to go on the record with any of this or whatever else, but if you can, if you can provide your contact information directly, I'll get in touch with you and then we can go from there.

Stephen Valich: Okay.

Melissa Valich: I think that's appropriate. Thank you.

Petition #5 is a Petition for Variance of Developmental Standards for Brett Waldo for placement of an enclosed 60 by 30 carport and no more than six shipping containers. Access by legal easement, no road frontage. Property is located at 7808 South First Line Road, LaPorte, Washington Township, zoned M2 on 18.227 acres. If you would come forward, please.

Attorney Voeltz: Notice is adequate.

Melissa Mischke: Thank you. If you would, please state your name and address for the record.

Brett Waldo: Right now, I'm staying at my daughter's house. So, I think it's I'd have to have to get my wallet. Okay. It's down in North Judson, San Pierre area.

Melissa Mische: While you're looking for that address, do you own the property?

Brett Waldo: Well, yeah, it's been paid off for 20 years. Had it for 23 years and I was living in Chesterton, never missed any payments on anything.

Melissa Mischke: Is there an actual home on the property currently?

Brett Waldo: No, there is not. And the reason why I've had it for so long and I've made some movements recently, going from one, you know, just moving. The reason why I wanted to put, I was thinking more on the lines the six boxes because they could be moved when I needed them to.

Melissa Mishke: So, you want to use the six storage containers for housing.

Brett Waldo: Yeah. Just for stuff that I've had, I've put in. I was a contractor for 30 years.

Melissa Mischke: Brett, you're going to store, you just are going to store items in the storage containers. You're not going to reside here?

Brett Waldo: No, I'm not going to reside here.

Melissa Mischke: Okay. What is the carport use then?

Brett Waldo: No, I don't need the carport. I want to be able to move them, in the boxes, when I need it, when I need to move, or when I decide to move it to one location.

Melisssha Mishke: So, you don't want the placement of an enclosed 30 by 60 carport?

Brett Waldo: No, the Connex boxes would work perfect. It's just storage for and I and I've had it there forever and I just thought I'd put my stuff there and I got a lot of storage fees that I'm trying to get out of. And I'm to the age where I want to just not be putting my money into someplace where I could put it. Okay.

Melissa Mishcke: Do we have any remonstrators for this petition tonight? Anybody for or against? Looks like we do have one. He's eager. So, if you'll have a seat, we'll hear what he has to say. Can you state your name and address for the record?

Tommy Kulaviik: 1316 Ohio Street. I'm A Michigan City man. We also have my family's estate property at 7733 West 125 North, Wozniak Road and 125 North, right across the Applewood subdivision. It's been in my family for 32, three years now where we've been. So, I know a little bit about county life.

That was when I said I'm against shipping containers. I think they're a blight, they're a sight. We got an ordinance in Michigan City. The shipping containers should only be in areas that are zoned industrial. We got one in Michigan City right there at Dunes Plaza next to the OfficeMax building. I've been complaining about that. I think you'll go to other counties, go down to like Hamilton County. You don't see shipping containers on all the properties down there. I got one about half a mile up from my mom's. I don't think he ever got a variance to have a shipping container on his property. No shipping containers. I thought, to me, it's more, I've never seen the Wozniak Road looking more worse the whole time we've been there. It's just horrible. You all the dilapidated outbuildings, grain silos, farmhouses. We have Indiana's unsafe building law to consider. This is just horrible. You know, the guy's too cheap to build poor money. He sounds like one of these people you see when you watch the TV show.

Attorney Voeltz: President, I need to interrupt. We will not entertain personal attacks. And for the record, the property is zoned M2.

Melissa Mischke: Okay. If you would like to come back up, please, and we'll see what else you have. Okay, so you're just going to store items out there?

Brett Waldo: Yeah, things that I've got all over the, you know, I've, like I said, I was a contractor and I've been putting stuff in lots of storage places.

Melissa Mischke: So, when you go to, is there going to be storage outside of these containers?

Brett Waldo: No, nothing. Nothing outside of these containers, just in it. And it's going to get moved probably two, three years. I don't know for sure, but that's what my plan is.

Eric Point: How long are you projecting to keep these there? How long do you want to keep? Three years. Is that what you just said? Sorry, I was trying to read this JZO. So, an industrial area says that you can have them, but it has to be within for an active business. And since it's not an active or an accessory.

Anthony Oss: To an accessory to an active industrial use, that's what the JZO says.

Melissa Mischke: Right, and he's just doing storage.

Anthony Oss: Can we set, are we at the point of discussion here or are we still questioning? I'm just asking if we can set timing conditions, right?

Melissa Mischke: Absolutely, and I would encourage it.

Anthony Oss: According to JZO, if it was an active business, he wouldn't even have to apply for it.

Eric Pointon: Correct, that's the way it reads to me.

Anthony Oss: In an industrial zoned area, which it is. It would have to be an industrial zoned area.

Melissa Mischke: Might get crowded down there on First Lane Road. Do we have any further questions? If not, I'm going to entertain a motion.

Anthony Oss: Well, I'll make a motion to allow the use of 6 storage containers on the site for no more than three years. Three years have to return to continue to use. At that point, it just gets reevaluated.

Eric Pointon: And you have to work with Mike's office because he has a... They have to be on a foundation and anchor down.

Brett Waldo: They do?

Eric Pointon: So, you'll have to still talk to Mike's office.

Melissa Mishcke: So, we're going to decide on the variance, if you can put them out there, and we might give you the stipulation on the number of years. The rest you're going to work with Mr. Polan's office. If you can't meet his criteria, he won't give you a permit. They're kind of the same only different parts of the scenario. So, I have a motion on the floor for approval with three years renewable, potentially.

Eric Pointon: I'll second that.

Motion carried and approved 4 – 1.

Melissa Mischke Congratulations, good luck, and make sure you get with the building commissioner's office.

Petition #6 is a Petition for Variance of Developmental Standards for Daniel J. and Lana Ford for construction of a shed eight (8) feet from the side and rear property lines instead of the minimum ten (10) feet required. Property is located at 2976 North Horseshoe Bend, LaPorte, Center Township zoned R1B.

Attorney Voeltz: Notice is adequate.

Melissa Mishcke: Thank you. Good evening. If you guys would please state your name and address for the record.

Daniel Ford and Lana Ford, we reside at 2976 North Horseshoe Bend here in LaPorte.

Melissa Mishcke: And what is unique to your property that's going to require the side setback changes?

Daniel Ford: Well, we would like to have a shed in our backyard and we'd like to use an existing concrete pad as the foundation for the shed. Ideally, the structure would be centered on the pad just for structural integrity. That would be eight (8) feet because it's twenty (20) foot wide and the shed's sixteen (16) feet. So, I don't have much room to play with side to side. So, I just like to balance it out. And I don't know. I don't think that you know, it's going to harm any of the neighbors or degrade from the neighborhood or cause any health or safety issues.

Melissa Mishcke: Okay, do we have any remonstrators this evening for this petition? Anybody for or against it? You're shaking your head no. Are you for or against it? Okay, very good. It's kind of like an auction back here. All right, any remonstrators? Favor or against? Seeing and hearing none, questions from the board?

Ernie Schmidt: Was there a structure there before?

Daniel Ford: No, sir. No. It was a it was a basketball court. I don't play basketball anymore.

Melissa Mischke: So, if we were to grant this variance, you would work with the building commissioner's office to meet all the requirements for a permit.

Daniel Ford: I've already done that.

Eric Pointon: I'll make a motion that we approve this.

Jeff Baltes: Second.

Melissa Mischke: I have a motion and a second to approve.

Motion approved and carried 3 – 2.

Melissa Mischke: Good luck.

Petition #7 is Petition for Variance of Developmental Standards for Jean Coulter (seller) and Dana Miller (buyer) for constructing a home and a barn on a one-acre lot with no road frontage. Access to the lot will be from Granite Drive and not part of this subdivision. Property is located next to or East of 9441 West Granite Drive, Westville, New Durham Township, zoned AG on 62.177 acres.

Attorney Voeltz: Notice is adequate.

Melissa Mischke: Thank you. If you would, please state your names and addresses for the record.

Dana Miller, address 5677 South US Highway 421, Westville, Indiana, 46391.
Blake Miller, same address.

Melissa Mischke: No road frontage.

Blake Miller: It's her family owned the property and it was originally going to be cul-de-sac back there. That plan has dissipated obviously now. So, there is a gravel area there that we can access into. You kind of see it on the site map that we gave you.

Melissa Mischke: Are there, to your knowledge, are there plans to improve past that cul-de-sac?

Blake Miller: No.

Melissa Mischke: Okay. Was it part of the original plan?

Blake Miller: Yes, it has all been dissipated and everything behind is still farmland owned by the Coulters still. And they don't plan on developing any of it.

Eric Pointon: Who owns that cul-de-sac?

Blake Miller: I thought it was under the Coulters.

Dana Miller: Originally it was CEM development, which was my uncles and my father. Everything got sold and now to other people. And then the farmland to the northeast is my grandmother's and she's going to quick deed me that one acre in that cul-de-sac area.

Melissa Mischke: Do we have any remonstrators tonight for this petition? Anybody in favor or against? You look like you're moving forward. No? Okay. Anybody for or against this petition? Any remonstrators? Seeing and hearing none, questions from the board?

I just want to state that if we approve this petition, please make sure that you have your address clearly posted and maybe work with your volunteer fire department or the Westville Fire Department, to make sure they know you're there and then purchase your sign from them so that everyone is safe. Interesting.

Anthony Oss: I guess I'm curious as to why we wouldn't go for a rezone to match the R1B that's adjacent.

Melissa Mischke: That would be the plan commission.

Anthony Oss: Right, but I'm asking them why we wouldn't pursue a rezone and rather than being a one-acre agricultural lot.

Blake Miller: We weren't advised to do that. We just said we were told that we needed a variance.

Michael Polan: I would say that even if they would have gone that route, because it's not part of the subdivision, it lacked the road frontage that triggered the variance part of it. Had that been part of the subdivision, that was fine. It's so administrative basically.

Melissa Mischke: Yeah, we've seen them before.

Anthony Oss: But if it's replatted, it'll be a one acre agriculturally zoned lot. Right?

Michael Polan: Yeah, there are numerous, numerous, numerous residential uses, ag lots in the county, everywhere.

Ernie Schmidt: I make a motion we grant this.

Jeff Baltes: Second.

Melissa Mischke: I have a motion and a second to approve.

Motion carried and approved 5 to 0.

Melissa Mischke: Good luck. Work with the building commissioner's office for your permit.

Petition #8 is a Petition for a Variance of Use and Developmental Standards for Steven Hardwicke and Yvette Hardwicke (deceased) (seller) and Nicholas Gragido (buyer) for constructing a pole barn without a residence and operating a landscaping lawn care business. The property will be cleaned up as well as the buildings will be demolished prior to construction, The property is located at 3026 West Small Road, La Porte, Center Township, zoned R1B.

Attorney Voeltz: Notice is adequate.

Melissa Mischke: Thank you. If you would please state your name and address for the record.

Nick Gragido, I live at 3967 Arrowhead Lane. I'm requesting this variance to operate a small lawn and landscape business. This property, we're going to utilize it for employee reporting location, equipment storage, and a future shop with a small office space.

In the past three weeks, we've demolished the unsafe structure, removed large amounts of debris from the site, cleared overgrowth, and we cleaned the property.

Melissa Mischke: Nicholas, is the sale of the property contingent on this variance?

Nick Gragido: We purchased the property.

Melissa Mischke: You did purchase it already. Okay. Are you prepared to have people come by and try to buy bait from you?

Nick Gragido: No, I am not.

Melissa Mischke: No? I mean, even I've purchased bait there in the past. I am very excited to see that you're cleaning up the property and definitely making a business. And so, I applaud that.

Are there any remonstrators tonight for this petition? I see somebody in the back, so if you want to have a seat, we'll hear what they have to say.

Good evening. My name is Lars Kneller, 3018 West Small Road. My wife Jaunda and I strongly support Nick's request for a variance to build a building and house a landscaping business. We've owned property that butts this property for over 30 years. As you mentioned, the infamous bait shop was there.

For years, the dwellings and the property have always been in poor condition, which has only worsened as time went on. Prior to his purchase, it was an eyesore, a health and safety hazard. The house was falling apart, junk scattered everywhere, multiple tires and containers holding stagnant water were present, and the septic no longer worked.

It was a very happy day for us when Nick announced that he and his wife were purchasing this property with plans for improvement. His in-laws have been my neighbors for 30 years, and I've known his wife since she was born, and I've known Nick since he started dating her and subsequently married her. They're both hard workers and upstanding community members. They're the type of young people our county and city need more of.

He has already torn down the structure and is working on the massive job of cleaning up the property, eliminating the health and safety hazards. He wishes to build a building that houses landscaping business. I've seen it, his work, and I know it'll be a night and day improvement and most likely will improve our property values. He runs a small business, so I really feel there'll be little traffic coming and going as a result.

By approving this variance, we have an opportunity to make a huge difference in our neighborhood and county and also support a young entrepreneur. Finally, I wish to briefly editorialize that our county desperately needs a stricter zoning ordinance to prevent hazardous eyesores such as this property in the 1st place. Thank you.

Melissa Mischke: Thank you, and I appreciate you taking your time out to be in favor of our young people and encouraging their business and updating and making our properties values go back up. So, I appreciate you taking the time.

If you'd like to come back up, are there any? Questions from the board?

Michael Polan: One comment, Madam President. Yes. I would actually echo Dr. Kneller's statements. This particular site, I've been to court at least once to try to get it cleaned up. And we had one of the structures torn down. This gentleman's torn down another one. So out of the 300 cases, this is one of the sites that already

previously been to court years working with the previous owner to try to get it cleaned up. So, I'm very appreciative where this is headed.

Ernie Schmidt: I make a motion we pass this.

Eric Pointon: I have a quick question. You said that you'd be building a building in the future. You know a time frame on that?

Nick Gragido: I don't right now. There are some other things that we need to do to further develop the property. There's a lot of clay out there. So, before we build, I need to get a dozer on site and cut probably several inches out of the existing grade that's there just to get that clay out before we build. So, I don't have a certain time table now that's going to cost a whole lot of money to get the clay removed and to bring in millings. I'd like to make a big milling parking lot there.

Ernie Schmidt: I make a motion we pass this variance.

Jeff Baltes: Second.

Motion carried and carried 5 – 0

Melissa Mischke: Congratulations. Thank you, and good luck.

Petition #9 is a Variance of Developmental Standards for Gregory Amor
to keep 3 shipping containers for storage. The property is located at 2125
East, 1000 North, La Porte, Galena Township, zoned Ag.

Attorney Voeltz: Notice is adequate.

Melissa Mischke: Good evening. If you would, state your name and address for the record.

Greg Amor, 3943 East 1000 North.

Melissa Mischke: This is interesting because you own how many parcels right there?

Greg Amor: Yeah, and I feel very underprepared and maybe a little ignorant to this process. So yeah, I have two right there that maybe I consider combining before I do this and then find out how many I could get there for storage with three acres versus acre and a half.

Melissa Mischke: So, the storage needs are personal storage, or are they?

Greg Amor: Correct. So, I have a sawmill out there and a lot of the equipment and tools that I would use for that would go into the storage containers.

Melissa Mischke: And do you live on this or is it a separate parcel? It's kind of, like I said, there were multiples with your name on them.

Greg Amor: I don't live at any of the parcels in that in that area.

Melissa Mischke: So, just storage?

Greg Amor: Yes

Melissa Mischke: Let's see if we have any remonstrators. All right. Is there anyone in favor or against this petition this evening? Anybody in favor or against, petition number 9. Okay, hearing and seeing none, let's see what kind of questions the board has.

Eric Pointon: Do you already have these shipping containers?

Greg Amor: I don't. There is one there. And like I said, a little ignorant to the process. I have a short 20-foot container there sitting next to the sawmill currently that is overflowing with, it's full.

Eric Pointon: And you're trying, you don't, maybe there was, there wasn't a map on where you wanted to put them.

Greg Amor: Yeah, that's why I'm feeling a little underprepared.

Melissa Mischke: Do you kind of know where you would have put it?

Greg Amor: I have an idea. This is the first step in the process is getting this first and then trying to, I have some low-lying areas and I would have to build those up to put them on there. So, if I can get them, then I'll figure out where I'm going to put them in coordinates with them.

Melissa Mischke: So, let me ask you, Greg, since you admittedly feel you're a little unprepared and having seen the questions and things that we're going to ask you, do you feel like you'd rather table until June to get a little bit better prepared, or if we vote no, then it's going to be about a year.

Greg Amor: Yeah, table.

Melissa Mischke: It'll be a year before we can hear it again. Let's table it. Okay. I just want to make sure that you're comfortable with what you're asking for and what the requirements.

Greg Amor: Okay

Eric Pointon: I would like to make a motion to table this and come back June 16th with a site plan and have a site plan where you want them and everything. Yeah. I think that would do well all around.

Ernie Schmidt: Second

Melissa Mischke: I have a motion and a second to table until the June. 16th meeting at 6 P.m. here in this room.

Motion carried and approved 5 to 0

Melissa Mischke: All right. And you can give the building commissioner's office a call. They can kind of walk you through some of it as well.

Petition #10 is a Petition for Variance of Developmental Standards for Manuel and Hortencia Eudave for construction of a second residence and keeping the existing home as a guest house. The property is located at 1097 West, 1000 North, LaPorte, Springfield Township zoned Ag on 21.017 acres.

Attorney Voeltz: Notice is adequate.

Melissa Mischka: Thank you. And if you would then state your names and address for the record.

Manuel Eudave, It's 1097 West 1000 North, Hortencia Eudave, same address

Gary Radke, Radke Engineering, 5821 North US 35 LaPorte

Melissa Mischke: Thank you, Gary. All right, why don't you tell me about the construction of a second residence, what the need is for that? And we'll start with that.

Gary Radek: Yeah. If I can just hand you out a little drawing, if I could do this.

Melissa Mishcke: Thank you, Gary. If you want to wait so you get all of your comments on the record.

Gary Radke: As you see in the plan that they own a 19-and-a-half-acre parcel, and there's an existing house which has been there for about 20 years. They purchased this property about six years ago, and they are planning a new house to be on the north side of it.

The road, which is on the curvy property line, is a dead-end road that they own the property on the east side of it. We got approval on a septic system for the new home and a building permit was requested. And at that time, it was stated that because there's another home on it that we need to approach us as a variance for a guest home.

Melissa Mischke: So really, we're replacing the primary residence.

Gary Radke: That found, yes.

Hortensia Eudave: Not replacing, trying to build our dream home.

Melissa Mischke: And there's a structure there, a residential structure that you're going to keep. That's where you live currently. Okay.

Eric Pointon: What are the plans with the existing house?

Hortensia Eudave: It's staying. As a guest house.

Melissa Mischke: Let's see if we have any remonstrators for this petition. Any remonstrators for petition number 10? Okay. if you'd like to have a seat, we'll hear what he has to say.

Good evening. Hi. Would you state your name and address for the record?

Yeah, my name is Richard Slater. I live directly across the street at 1076 West 1000 North. Been there for 49 years. Just more so questions. I was just, I never saw any plans for where the house was to be located. So, I was questioning whereabouts on the property was it to be located? How is he going to address drainage issues out there in the clay?

Melissa Mishcke: You said drainage issues?

Richard: Yeah, it's all clay out there. So, it's really a wet area, especially this time of year. I have ditches along 1000 North and Old Buffalo Road that I border on that drain me and my existing neighbors' water away. But I don't know back there if he's got a plan, maybe a retention pond or what.

Melissa Mischke: Richard, I think some of that too will be addressed with, if it's over an acre, that they're disturbing the land, then they would work with our county MS4 office.

Richard Slater: And then my other question was how is this going to impact the existing business he operates on the property? Is there plans for growing the size of that business or is it going to stay relatively the same or just what may happen with that? But that's the only questions that I had.

Melissa Mischke: Okay, thank you. Any other remonstrators? Anybody else for or against this petition? Come on up.

Greg Amor, 3943 East, 1000 North, so not far from that property, and all for them building their house there. And if there were any drainage or water issues that he's concerned about, we would be able to drain that. And there are ditches existing there that we could tie into.

Melissa Mischke: Okay. Great. Thank you. Right, if you guys would like to come back up. I want to hear what kind of business you run out of there.

Gary Radke: The issues regarding the septic system. There is an existing absorption field located to the northwest of the home that we have received the health department approval to connect to. It was built a number of years ago to serve buildings, but you can see in the plan those two white buildings and something that was disconnected and now it'll be used for the house

On the drainage issue, we designed the drainage away from the house. It'll be built up because there is a high groundwater. And we're going to build the home up to make sure that there's no issues with the ground water.

Melissa Mishke: Okay. What kind of business do you run out of there? It's on the north side?

Manuel Eudave: Well, no, I have a pole barn and I use it for my trucks. I have a landscaping company. I'm not, I'm not thinking about getting any bigger. I think this it.

Melissa Mishcke; What other questions do we have as a board?

Anthony Oss: Did we maybe I missed it? Do we mention how large the just the total proposed square footage of the new house is going to be? I mean, maybe I missed it.

Manuel Eudave: Total is going to be 20, what's with garage, 32, 3050 with garage. One level.

Melissa Mishcke: I heard that. Okay, what other questions do we have from the board?

Eric Pointon: You said there was an existing septic, so there'll be a septic for each house. Is that what you're saying?

Manuel Eudave: The septic and then the drain field, we're going to use the existing drain field.

Gary Radke: The guest house has been there for about 20 years. There's a septic and absorption field in for the guest house. The new house will be in the other to the northwest of the absorption field. It'll be two separates; one will have their own.

Eric Pointon: And its own well?

Melissa Mischke: This is our criteria for us to approve or deny.

Anthony Oss: Just to clarify, I'm looking at the right. I mean, Developmental Standards, we don't have any, we're not building an accessory house. We're asking that the existing becomes the accessory and there's the standards are accessory dwellings to be no more than 33% of living area or 800, whichever is more. So we can just kind of do the math on your own, I guess, from that. But I just want to make sure that's what we're considering, right?

Mike Polan: That is correct. And their square footage doesn't match that, which is part of the variance.

Melissa Mischke: If there are no further questions, I'll entertain a motion.

Ernie Schmidt: Make a motion. We pass this period.

Eric Pointon: Second.

Melissa Mischke: I have a motion and a second to approve. All those in favor say aye. Those opposed, same sign.

Motion carried, approved 5 – 0

Melissa Mischke: Good luck. Make sure you get with the building and work with them. Thank you.

Mike Polan: Madam President, just a quick statement. We've made it this far. Unless any of the petitioners that remain need to use the TV, I would ask permission that we dismiss our IT and thank him for his assistance tonight, as well as our sergeant at arms back there.

Melissa Mischke: I definitely agree with that. I know this is really exciting material that you want to stay for. My buddy's going to stay.

Attorney Voeltz: Thank you, Ivan.

Melissa Mischke: So, I think we're going to pause for a quick 10-minute break.

Petition #11 for Variance of Developmental Standards for Ray (deceased) and Joanne Irons for installing an interior lot line, making two lots out of 312 Island Drive, LaPorte. The interior lot line will be 10 feet from the existing garage. The new structure will be 10 (ten) feet from the rear lot line instead of the required minimum 25 (twenty-five) and 20 (twenty feet from the front property line instead of the required 25 (twenty-five) feet. The home will be a two-story with the garage and storage on the ground level with living space on the 2nd floor instead of any living space on the 1st floor and it is located at 312 Island Drive, Center Township, zoned R1B.

Attorney Voeltz: Notice is adequate.

Melissa Mischke: Okay, thank you. Would you state your name and address for the record?

Mark Irons, 410 Oak Drive, LaPorte.

Melissa Mischke: All right, Mark, let's just break down what. As I said, it was getting more complicated and more complicated. So, you're pretty much asking for a setback relief on all sides.

Mark Irons: On the front and the back, my understanding is it's supposed to be 25 feet from the front, 25 feet from the back. I'm the co-trustee of the 312 Island Drive. My uncle passed, as you stated, in January. We're wanting to subdivide, first subdivide that lot. It would be facing Grayson, actually. So he owns in that trust property from Island Drive back to Grayson. I don't know if you have that map.

So many years ago, he bought those two lots that are on the Grayson side. I'm looking to subdivide that and my aunt is looking to sell me that.

And Janet advised me that first, let's do a variance or ask for to subdivide the

property. And then the setbacks are the second variance request regarding the front and the back. I think the, isn't the requirement 10 feet on each side?

Melissa Mischke: I believe it is on the county. Okay. I like to call those coastal areas.

Mark Irons: I have no issue with the two sides. It's just the front and back. So, subdividing and then we're looking to build that similar place to transparently to put our boat and our jet skis because we live further down on the island. And the residence upstairs, if we finish that right away, if we don't, it doesn't really matter. It's more of a future in-law suite, if you will.

Melissa Mischke: If we were to approve this, there's no renting of that residential space.

Mark Irons: That's not our current plan, no. If we did have to rent it five years from now or 10 years from now.

Melissa Mischke: You would have to come back in front of us.

Mark Irons: To get a rental approved or whatever. Okay. I wasn't aware of that.

Melissa Mischke: If it's part of our motion to have no rental of it and no further subdividing, then those stay with the parcel.

Mark Irons: Okay. All right.

Melissa Mischke: Okay, so let me just clarify in plain English here. The portion that is off of Grayson Road is what you want to parcel off.

Mark Irons: Yeah, originally those were two 40-foot lots by somewhere close to 90 feet. My uncle built that garage in 92, I believe, and he put it a couple of feet into those lots.

Melissa Mischke: So, you want, that's the part you want to section off into it, separate parcel. And then the request for the setbacks is on that larger piece.

Mark Irons: Correct, on the 40 (forty) by roughly 90 (ninety)

Melissa Mischke: Have you had a surveyor look at this at all? Just out of curiosity.

Mark Irons: I had a surveyor come out and he looked at it and he said that he can do that, but the cost was 5 (five) grand. So, I wanted to find out first whether you all would approve it.

Melissa Mischke: Yeah, that's a lot of money. Let's see if we have any remonstrators.

Anybody for or against this petition?

Very good. If you'll have a seat, we'll hear from the remonstrators.

Aaron Johnson: I have a home at 339 Oak Drive, LaPorte on the island. And I just want to speak up and say I support what he's trying to accomplish.

Melissa Mischke: Okay. Thank you. Any other remonstrators? For or against? Last call for remonstrators. Hearing and seeing none.

What kind of questions we have from a board and perhaps our attorney. No questions from you. What about you guys?

Tony, do you have any questions?

Ernie Schmidt: Your new structure will be 10 (ten) feet from the proposed property line? On the rear?

Mark Iron: 10 (ten) feet from the proposed property line. So, 20 feet back from that existing garage that faces Island.

Ernie Schmidt: So, there will be 20 feet between them?

Mark Irons: Correct. And I mean, in all honesty, this is a plan I picked because I had a lot of space on the ground floor. If, you know, it could get smaller, but I just want to make sure that that's what the boundaries could be, if that makes sense.

Melissa Mischke: Mike, do you have anything to add to this?

Mike Polan: No, ma'am.

Melissa Mischke: Okay. All right, well, if there are no further questions, I'll entertain a motion.

Jeff Baltes: I'll make a motion we approve this, as this variance presented.

Ernie Schmidt: Second.

Melissa Mischke: I have a motion and a second to approve

Motion carried and approved 4 to 1

Melissa Mischke: I would just say that when you're, the motion is passed, 4 to one, and work with the building commissioner's office, and I would definitely work with him and our real estate office when you do the split.

Mark Irons: The subdivide piece?

Melissa Mischke: Yes, when you split that parcel off.

Attorney Voeltz: From a legal perspective with regards to the specific findings and conclusions, it's going to be very, very specific with regards to where the setbacks are coming from and where they're going. Which is considered, and that can be used then for future purposes with regards to real estate and the building commissioner's office as well.

So, there's just going to need to be quite a bit of communication here with regards to the specific language that will be included in this so that you don't encounter any issues moving forward.

Mark Iron: Understood.

Petition number 12 is a Variance of Developmental Standards for Harry Steinhagen to split a two-acre parcel. The house will be split off of 3782 West, US 20, and will be .6 (six) acres, less than the minimum requirement of 1 (one) acre. The rest of the (2) two acres will be added to 3792 West, US 20, LaPorte, and both properties are located in Springfield Township, zoned R1B.

Attorney Voeltz: Madam President, the only thing we were waiting for was an affidavit of publication and that was received. So, notice is adequate.

Melissa Mischke: Very good. Good evening. Would you state your name and address for the record, please?

Harry Steinhagen, 3792 West US Highway 20, LaPorte.

Melissa Mischke: Harry, didn't we just do that? Did we just work on property south of you right here?

Harry Steinhagen: Not me.

Melissa Mischke: It was in my mind. Okay.

Harry Steinhagen: If I have more property, please let me know.

Melissa Mischke: I definitely will. I'm sure it's an error on my part. Okay, so you want to split this parcel into two?

Harry Steinhagen: Yes.

Melissa Mishcke: And we're going to leave one of them with .6 (six) acres.

Harry Steinhagen: Yes, the home up front, I would like to sell off. And I'm splitting it so that it's separate from the buildings in the back. The buildings in the back will attach to my property.

I grew up on that property. My parents had that property since 1970. And while I'm not thrilled about selling the house, I need to sell the house for the proceeds to be able to finalize my divorce.

Melissa Mischke: I get that.

Harry Steinhagen: And it does leave a nice big front yard for the home, a nice side yard and a backyard.

Melissa Mischke: So, you're going to keep a sliver on the side there that will lead to your property. You're going to have no road frontage at all for the rest of your property.

Harry Steinhagen: I own the property beside it. I own 7.34 (seven point three four) acres beside it.

Melissa Mishcke: What is the address of that?

Harry Steinhagen: That's the 3792 West US 20. If you'd like, I could approach and show you.

Melissa Mischke: Oh, 3782 is what you want to off. Yes. I had it backwards. I apologize.

Ernie Schmidt: And you own the property to the west?

Harry Steinhagen: Yes, 3792. I own that and the property behind 3782.

Melissa Mishke: Okay, my question is still relevant. You want to sell off 3782?

Harry Steinhagen: Just, yes, the front part, yes.

Melissa Mischke: So, then you're going to have access to 3792 and the property together?

Harry Steinhage: Yes, the driveway for 3792 also goes behind the outbuildings and services both outbuildings. We really don't use the driveway that goes in front anymore.

Melissa Mischke: So, your access will be off of 3792.

Harry Steinhage: Yes.

Melissa Mischke: I'm sorry, that was so confusing.

Harry Steinhage: Oh no, it's fine.

Melissa Mischke: The road frontage for 3782, the home, how much is that?

Harry Steinhage: It's approximately 150 feet.

Melissa Mischke: Okay. And you have at least that on the property to the west?

Harry Steinhage: To be honest, I'm not sure. It might be. It might be on that drawing.

Melissa Mischke: Okay.

Let's see if we have any remonstrators, shall we? Are there any remonstrators for this petition? Anybody for or against this petition?

Harry Steinhage: I'll be honest, if I knew you could bring people forward, I'd have brought a half a dozen.

Melissa Mischke: You know, it always makes me feel a little bit better to have someone in favor, too, because we hear so much negativity that it's nice to see someone in favor of a petition.

Harry Steinhage: I personally have spoken to most of my neighbors that have bought my property, and they all verbally have said that they are. I know that's hearsay.

Melissa Mischke: And I'm sure they signed their notice that they received it. So, they're aware of it. And if they were against it, they would have come and let us know. So that's still a good sign.

Okay. Any remonstrators for Harry?

Okay, hearing and seeing none, what kind of questions do we have from the board?

Okay, so my only comment then is going to be that if you, if we pass this, you want to make sure that both addresses are clearly visible from the highway marked and for safety reasons. Okay.

Harry Steinhagen: They are, and they do have the additional signage on them.

Melissa Mischke: Perfect. Thank you.

Ernie Schmidt: I'll make a motion.

Eric Pointon: Second.

Melissa Mischke: We have a motion and a second to approve petition number 12.

Motion approved and carried 5 – 0

Melissa Mischke: All right, good luck. Work with the building commissioner's office. they can help you through the process.

Petition number 13 is a Petition of Variance of Developmental Standards for Emory Investments to create 2 (two) parcels out of 29 (twenty-nine) acres. The first parcel will be plus or minus 16.05 acres (sixteen point zero five) and 770.34 (seven hundred and seventy point three four) feet of road frontage instead of the minimum required 200 (two hundred) feet. Parcel #2 will be plus or minus 14.42 (fourteen point four two) acres with 200 (two hundred) feet of road frontage and the property is located 3522 South State Road 104 LaPorte Pleasant Township zoned M1 29 (twenty- nine) acres.

Attorney Voeltz. Notice is adequate.

Melissa Mishke: Thank you. Would you state your name and address for the record and thank you for your patience.

Nathan Flickner, Whiteman, representing the petitioner. This property we're just looking to split off really for tax purposes. They were just trying to separate the business there. Just we don't have enough road frontage. We got 270 (two hundred and seventy) feet across the front there. So, we are trying to leave 200 (two hundred) on one and leave the 70 (seventy) feet on the other.

Melissa Mischke: What is the plan for the 2 (two) parcels?

Nathan Flickner: Nothing's changing. Business will still operate. They ship out of the one side and manufacture out the other side. He just wanted to maintain the rail access on the distribution side. But the entrance will stay the same.

Melissa Mischke: Ok, no additional fires or anything?

Nathan Flickner: No, not yet. I can't promise anything.

Melissa Mischke: Okay, let's see if we have any remonstrators. Is there anybody for or against this petition? Anybody at all? For or against petition number 13. Last call for remonstrators. Okay. Hearing and seeing no remonstrators, what kind of questions do we have as a board?

Tony Oss: I'll kick it off. There are existing cleanup operations going on out there.

Nathan Flickner: I believe those have been completed in April.

Tony Oss: Okay. Has there been documentation provided from EPA clearance letter?

Nathan Flickner: I just read it off their website. It's posted on there.

Mike Polan: Madam President, I've not been notified. To my knowledge, that EPA cleanup is still going on. We've gotten no other information from the owners that this is a problem site.

Melissa Mischke: Oh, absolutely.

Eric Pointon: So, is there two businesses in there currently? It is just for tax purposes?

Nathan Flickner: No, one business. So, what is the Emory Investors is trying to break off from the current president or CEO that is currently incarcerated. So, he's just trying to be able to still operate and separate himself and to be able to continue while somebody's in prison because that's who's running it now. So, he's trying to separate himself from that. And he is working with the EPA and they were in there cleaning it, and they were assisting.

Melissa Mischke: We could make a motion and it could be contingent on providing the documentation to our building commissioner's office. I feel like any motion we would make in favor would be conditional. Do you agree with that, Mike?

Mike Polan: I'm not in favor of granting this at all.

Melissa Mishcke: Okay. There we go. Hey, so what kind of questions do you guys have, if any? Pleasure of the board.

Attorney Voeltz: Madam President, from a legal perspective, to place contingencies on a motion that would then be passed or could be passed is rife with possibilities of non-compliance, which would then render the decision moot.

It would be my recommendation, from a legal perspective, that there be a period of time allowed for this petition to comply or otherwise provide more information based upon the questions that were raised by this board. To ensure that we are not, or I'm sorry, that this board is not stepping on somebody else's toes with a much higher level of enforcement authority. To then further hamstring what the petitioner's intentions are.

So, by making a motion with conditions and approving it, it may wind up in the long run being a worse outcome than what it would be to simply table it for one month, again, from a legal perspective only. Not examining the merits of the petition, but rather it is my opinion from a legal perspective, you don't have all the information available to you to make a decision. And then to make a decision with contingencies would have the same effect and purpose or of same effect and result of having it tabled for one month to allow these loose ends to be cleaned up.

Melissa Mishcke: Nathan, how do you feel about tabling for a month? I can move you. I can move you up in the agenda.

Nathan Flickner: Oh, there we go. Sold. Let's table it

Melissa Mischke: I think that's a good idea. What do you guys think as a board?

Nathan Flickner: What information are we taking?

Melissa Mischke: You're going to work with the building commissioners on that.

Mike Polan: I'll go on the record. I want to know directly from the EPA, is the cleanup concluded? Are they planning on putting a lien on the property to recover the costs included with that? I mean, the name of this petitioner is the petitioner of that petition the first time. And we had all the problems.

Melissa Mischke: Yeah, I am going to suggest, that in our motion we request correspondence be sent, so that they are aware of all the requirements, that you would like, Mike. Then we will table it.

Eric Pointon: There is still only one business operating on that property?

Nathan Flickner: Currently, yes.

Eric Pointon: What is that business?

Nathan Flickner: It's like a glycerin. I'm not sure. They create chemicals out of waste.

Eric Pointon: And they're still operating.

Nathan Flickner: Yes.

Eric Pointon: There's no other businesses.

Nathan Flickner: No, it's all just one piece of property, one business operation.

Eric Pointon: I'll make a motion that we table this, work with Mike's office, give him every piece of documentation he asked for, and if not, we will go from there.

Tony Oss: Second.

Melissa Mischke: Okay, so I have a motion and a second to table. And if the June meeting is too early for you, again, request, we can go out further. And send correspondence with the requirements.

Motion carried and approved 5 to 0.

Melissa Mischke: And thank you again for your patience this evening.

Petition number 14 is for a Variance of Developmental Standards for Robert and Connie Dencho for construction of a second dwelling to care for elderly parents. The home will be no more than 2,000 (two thousand) feet rather than the maximum size of 800 (eight hundred) feet. The property is located at 952 North, 1150 West, Michigan City, Coolspring Township, zoned Ag on 10 (ten) acres.

Attorney Voeltz: Notice is adequate.

Melissa Mischke: Thank you. If you would state your name and addresses for the record.

Connie Dencho, 952 North, 1150 West, Michigan City, Indiana.

Robert Dencho, 0952 North, 1150 West.

Melissa Mischke: I apologize for my pronunciation of your name. So, let's talk about, you're going to construct a second home.

Connie Dencho: Our daughter and her fiancé would like to build a home on the property and we would have our home.

Melissa Mischke: So, you're going to stay in the existing home?

Connie Dencho: Yes. Right.

Melissa Mischke: And the new house will be no more than 2000 (two thousand) square feet.

Do we have any remonstrators for this petition? Anybody for or against it? Any remonstrators, final call. Hearing and seeing no remonstrators, what kind of questions do we have?

Ernie Schmidt: Where is this house going to go in relationship to your building?

Connie Dencho: We have 10 acres and our house sets up toward the front of the, off of 100 North and the house that they'd like to build would go, I think 600 (six hundred) feet. You have a drawing there. I believe it's 600 feet off the road toward the back.

Robert Dencho: Five or six.

Ernie Schmidt: So, it'll be to the north of your house.

Connie Dencho: Yeah, don't ask me North South. OK.

Melissa Mischke: What kind of additional questions do we have?

Eric Pointon: Normally we would say to subdivide that as an easement, correct, for the driveway back and all of that.

Mike Polan: On the drawing here, since it's the same parcel.

Melissa Mischke: There's no easement necessary.

Eric Pointon: Oss: Or make an easement, I guess, then that, no.

Melissa Mischke: They're not splitting the parcel, so it's all one parcel. So, access will still be, I might, yeah.

Tony Oss: Yeah. But it looks like we'll have two driveways is what you're proposing, right? Or is that driveway the one that's going to that, the old house that's going to be torn down?

Dane Reinke, 207 Plain Street, Westville.

There are already two driveways:

Melissa Mishcke: Are you going to be the son-in-law? Yes. So, what's going to happen, though, is you can have two entrances. You're going to have two addresses. So, you want to make sure that those addresses are clearly visible. Again, you heard me say it earlier. Talk with your township fire department if you can and make sure that they know you have two there. If you have medical conditions or anything, should we approve it? Anything else? If there's nothing else, I'll entertain a motion.

Ernie Schmidt: I make a motion we approve the variance

Eric Pointon: Second

Melissa Mischke: I have a motion and a second to approve. All those in favor say aye. Those opposed, same thing.

Motion carried and approved 5 to 0.

Melissa Mischke: OK. Good luck. Thank you. Son-in-law, good luck. All right. The last one.

Petition# 15 is a Petition for a Variance of Developmental Standards for Aaron Johnson and Megan Johnson to construct a two-story with a garage on the 1st floor and living quarters on the 2nd floor and a one-story garage. The front lot setback of 10 (ten) feet, from 25 (twenty-five) feet, a rear lot deviation from waterway setback of 12 (twelve) feet, and the property is located 100 (one hundred) yards east of the intersection of Oak Drive and Island Drive, Center Township, zoned R1B.

Attorney Voeltz: Notice is adequate.

Attorney Ralph Howes of Howes and Howes. I was here last October, I would never be back here again, but here I am.

Melissa Mischke: Well, we're glad to have you, Ralph. Well, thank you. So Mr. Johnson's plans have changed since we were here in October, driven by the acquisition of four lots, one of which is a lake frontage lot, directly across the street. And then the lot 16, which was the lot that we were here for in October, that he received variances for, he now has lot 17, 18, and 19. And as a consequence, his plans have changed. He has not done anything with respect building on lot 16. I know he has things that he wants to say, and he's probably more eloquent than I am, so I'll be brief.

It looks like from what the board is needing to consider is actually less in the way of requests for variances than we had presented in lot 16. But we now don't we need no side lot side lot variances. The front variance we're requesting is 10 (ten) feet. But keep in mind, there is already a 10 (ten) foot right of way. So coupled with the... that 10 (ten) feet and he really is down too next to nothing in a way of a front. And it seems to be a commonality with virtually all of the petitions you're hearing from out on the island. They're driven by the waterway setback.

Should he have to comply with a 50 (fifty) foot setback and the standard front lot setback; I think that leaves him with 5 (five) feet to build on. So, he's requesting, I believe it's 10, 12, what is it here? Yeah, 10 (ten) foot variance in the front that would give him 20 (twenty) when you couple it with the existing right-of-way and rear waterway 12 (twelve) feet. And with that, would you allow Mr. Johnson to continue the presentation?

Melissa Mischke: Normally I give 3 minutes for this, so.

Well, good evening, Aaron Johnson, the petitioner, and hopefully this is Ralph's last time being here. Thank you to the BZA for the opportunity. Good evening. Sorry for such a long night. My name is Aaron Johnson. My current home is at 339 Oak Drive. I've lived and owned houses on Pine Lake for 37 years.

This is the third home I'm trying to build on Pine Lake. I'm here tonight asking for less of a variance than what was previously requested and approved. In October, I came before you and I had a 50 (fifty) foot lot and I requested a 12 (twelve) foot on the back, 10 (ten) feet on the front, plus the 10 (ten) foot easement, meaning I would have been 20 (twenty) feet off the road as Ralph explained. And I also asked for 7 (seven) foot setbacks on both sides. I no longer need those setbacks.

This would have allowed me to build a three-car garage on the main level with living quarters in my home on the second level, and this board approved it in October. Since then, my neighbor to the west approached me to sell his property. I recently closed and bought 4 (four) empty lots.

And so tonight, I'm requesting approvals for the exact same front and back, front and back setbacks of 10 (ten) feet and 12 (twelve) feet, respectively, 20 (twenty) feet from the road is what you've previously approved. I do not need a side setback.

I've hired Brian Ford to build the home, one of the best craftsmen in LaPorte. I've counted there are 108 (one hundred and eight) homes on the island. I went out with a laser and measured all of them. There are 32 (thirty-two) of those 108 (one hundred and eight) homes are less than 15 (fifteen) feet from the edge of the road, the closest of which is 4 (four) feet from the edge of the road.

I will be 20 (twenty) feet. There are 7 (seven) homes located on the same pond that we're on. Every single one of them is closer than the 50 (fifty) foot setback requirement. So, my proposed home is consistent with the neighborhood. And this is my dream home that I'm planning to retire in. And I appreciate your consideration to the request. There are also 4 (four) letters of support that remonstrators have submitted, including the neighbor to the west as well. So, thank you.

Melissa Mischke: Thank you. Are there any remonstrators for this petition? Any remonstrators for or against?

Come on. State your name and address for the record, please.

Christopher Willoughby, Braje, Nelson and Janes here on behalf of my client, Denny Follis, who resides at 314 Oak Drive to remonstrate against this petition.

While I understand there have been previous variances granted for this owner, as well as maybe other properties and then some that were done before current administrations.

Unfortunately, all we heard tonight was we want this and you previously approved something. However, you have legal standards that you have to follow and not one has been established tonight. You've received no proof, no evidence in the record other than they want to build this house and build my dream house and we bought more lots. I understand that and I empathize with that, but the petitioner has the burden, not my client. My client is a neighbor who objects to this petition.

Mr. Howes and his client, and I have again the most the utmost respect for Mr. Howes, but they have the obligation before you. You have to sift through and make a

decision and make findings to decisions, and if they don't provide you with that evidence. You cannot approve what they seek.

We'd like to point out some deficiencies with their filing, one with their site plan. And some of these are varying degrees, but making my record. Site plan under the BZA's procedures does not, it is not in compliance with the BZA's adopted procedures because it doesn't show driveways or proposed boundaries with all of the approximate measurements. It shows some of them. So, there's a deficiency in the site plan, at least what was provided to us when we requested that. And there's no reason for me to believe I didn't receive what you have.

The owners did not sign the petition and there's no power of attorney signed. Mr. Howes signed it. And again, I present that to you, take it for what you will. I believe that's a technicality. Sure, they can fix that. But again, I'm pointing out as I go through my review.

Another one that I think is fairly significant is the notice of petition, and I think it's artful that they present tonight. Well, there's an artful description in the petition that they seek to construct a two-story with a garage. They've asked in their petition and their notice to build a garage with living quarters. And there's a distinction there. This isn't a single-family home. This is either an accessory building or it is an accessory dwelling unit. And that takes us in a whole new ballgame, because accessory dwelling units are accessory structures, you get one additional that's detached. And that can even be across the street if it's within the appropriate distance. But they get one. And they need to make sure that that complies.

However, if there's living space, now we have an accessory dwelling unit, which requires, it is allowed in this zoning, but it requires a special exception. And the standards that have been cited in this petition, I'm sure they're probably carry over from that lot 16. However, they've not established, right? Whether there's what hardship he had lot 16, they bought additional ones buying into this and you can't create your own hardship. They knew what they were getting into and they can build and use that. They want to build their dream home. They don't need to. They can build from their other properties an accessory building. They cannot build an accessory dwelling unit without a special exception.

I would also like to, so the petition in the petition, or sorry, in the notice, they have asked for, or sorry, what was published is that they were asking for... sorry, I have this distinction somewhere, in their petition, they are asking for the real deviation to 12 (twelve) feet and the front to 10 (ten) feet. In their actual notice of publication, they ask for 10 (ten) feet and 25 (twenty-five) feet. And so, there's a material, I don't want to say misrepresentation because I don't want to insinuate that Mr. Howes or his

client has done anything underhanded, but they don't match. And what was noticed to the public is something significantly different.

So, the bottom line is under, for your consideration, under section 16-02 of the JZO residential accessory buildings, detached, they're allowed, but only one.

Under section 31-02, a detached garage is allowed. But an accessory building, also considered a non-paying guest house. Again, what is this thing? The way that it's described in their petition is that it is a garage with living quarters. And that's what takes us to the requirement for a special exception, which again, is permitted, provided they meet strict criteria. And there's much more that they have to show and prove to you for approval of that special exception. So, with that, we would ask that you deny this petition. Thank you.

Melissa Mischke: Questions from the board.

Eric Pointon: Andrew, do you think that we should table this and ask for the paperwork to be redone?

Attorney Voeltz: The notice of public hearing indicates specifically for developmental standards variance for front set back to 15 (fifteen) feet, wetlands set back to 25 (twenty-five) feet for the following described property. The petition does not contain that language that I can see. There are discrepancies with regards to, they refer to a waterway setback and not again, specifically, as contained in the notice, a wetland setback. So, there is a discrepancy with regard. I mean, certainly the notice date was accurate and adequate. However, the notice of public hearing language is dissimilar from the petition.

So, with that being said, again, from a procedural standpoint, notice was adequate for the timing. However, the language in the notice of public hearing as published in the Westville Indicator does not match the petition.

Eric Pointon: I, me personally, I think we should table it. They already have a lawyer, so obviously they're going to fight it, so we want it as clean as possible.

So, I make a motion to table till the 16th of June meeting. Fix those changes, work with Mike and Andrew, re-advertise and do all the necessary steps to make sure all your I's are dotted and Ts are crossed.

Jeff Baltes: I'll second that motion.

Melissa Mischke: Ralph, you may have to come back. Okay, so are you good with the tabling? And if we can get somebody to the record, to the microphone so we can have it on, if I can get one of you to the microphone so we can get it on record.

Aaron Johnson: Yes.

Melissa Mischke: You're good with tabling. Thank you. Okay. So, I have a motion and a second to table. All those in favor, say aye.

Motion carried and approved 5 to 0.

Melissa Mischke: Okay. See you in June.

That is my error. I did not approve the meeting minutes. We can do that now, right?

Eric Pointon: I make a motion to approve the prior meeting minutes as presented.

Jeff Baltes: Second.

Melissa Mischke: A motion and a second. All those in favor say aye.

Motion carried and approved 5 – 0.

Since Rita is here from our Planning Commission as well and several members that sit on the Planning Commission, I just want to reiterate again that I hope that we could tighten up the zoning ordinance on storage containers. and specifically, setbacks in water; the island, Hudson Lake, all those lake areas, we need, we are inundated with this kind of petition. And I would like to see that addressed a little bit differently in the zoning ordinance so that it is not in front of us all the time.

Eric Pointon: There's actually a few things I'd like to add to the zoning ordinance I've talked to Mike about.

Melissa Mischke: And tiny homes were my last one.

Eric Pointon: Yeah, there's a, that is actually one of the things we've been working on some things on the planning. Yeah, and the comprehensive plan. So, I've been told to kind of see where that lies.

Mike Polan: Great. I agree. I've discussed this at the Plan Commission, specifically stuff in Article 14 where I want to see language cleaned up, where it addresses sand mining and other things that should be tweaked and clarified. And we're currently doing the comp plan. So typically, after that, the JZO would follow.

Melissa Mischke: And again, since we have some other offices represented, I would love to see that Mike's office gets staffed to the point where we can do enforcement. I've been on this board a long time and enforcement is the absolute number one

problem in the county, we're reactive, even if that. So, all the things that we fight and bicker about, if we could get somebody in Mike's office, I think that would be outstanding and certainly helpful to you.

Mike Polan: Yeah, I would add to that. We had a code enforcement committee. The elected officials that were on that are no longer in office, but I think we spent a couple of years.

Melissa Mischke: Yeah, we need to get you the support that you need.

Mike Polan: We had a draft ordinance. We had funding requirements. We had a magistrate or hearing officer. Everything was spelled out. It was given to the county attorney it basically stalled because there isn't the money to fund it. So, we work with old ordinances and band-aids and piecemeal what we've got.

Melissa Mishcke: Well, we can see how that's not working for us in this Johnson Road petition. So hopefully that's something we can look at going forward.

Is there any new business? Any other business, old business?

Mike Polan: I just want to thank everyone on this board, our new attorney, the staff in my office, and the public for the roller coaster ride that we've all been on over the last 90 to 120 days. It's been pretty chaotic and triaged. And it's affected all of us, new board members, old board members, the people that have been waiting to hear their petitions heard for 90 days, staff in the office, our new attorney, our prior attorney. So, thank you to everybody for what you've endured over the last.

Melissa Mischke: These are from your office? (holding up binders)

Mike Polan: Yes, while I did reproduce those, the contents were actually produced by the Indiana Planning Association and it covers both Plan Commission and BZA. It's not related to any of the fiascos that we have going on, but it is related to the turnover that we've had in our attorney slot, our staff, our board, both boards. So, I had asked our previous attorney to schedule a training session for the boards. And I think he was going to do that. And he's no longer with us. So that's my way of trying to get us unified and consistent in our approach.

Eric Pointon: Thank you, Mike, as well as your office, your staff.

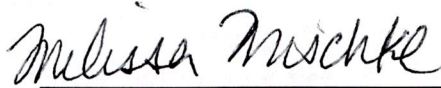
Melissa Mishcke: Thank you. Okay, if there's nothing further.

Eric Pointon: I make a motion to adjourn.

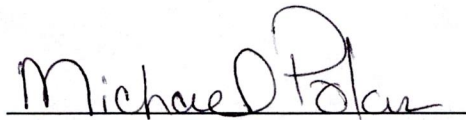
Jeff Baltes: Second.

Melissa Mischke: All those in favor to adjourn.
Motion carried and approve 5 to 0

Meeting Adjourned at 8:28 p.m.

Handwritten signature of Melissa Mischke in cursive script.

Melissa Mischke, President

Handwritten signature of Michael Polan in cursive script.

Michael Polan, Recording Secretary